REQUEST FOR COUNCIL ACTION

MEETING

171

DATE: 7-21-03

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	E-10
ITEM DESCRIPTION: Zoning District Amendment #03-13 is proposing to zone approximately 10.19 acres of land fr 1 (Mixed Single Family) zoning district. The property is leand east of Sunrise Avenue SE. A General Development concurrent with this application.	PREPARED BY: Brent Svenby, Planner	

July 11, 2003

City Planning and Zoning Commission Recommendation:

The City Planning and Zoning Commission held a public hearing on June 25, 2003 to consider this zone change. The Commission also reviewed a Land Use Plan Amendment and GDP for the property.

The Commission reviewed the zone change request based on the criteria as included in the staff report and recommended Approval, with staff suggested findings.

Motion by Ms. Petersson, seconded by Mr. Burke to recommend approval of Zoning District Amendment #03-13, with staff-recommended findings. Motion carried 7-0.

Planning Staff Recommendation:

See attached staff report dated June 19, 2003.

Council Action Needed:

The Council should direct the City Attorney to prepare findings of fact reflecting the Councils decision on this zone change.

If the Council approves this zone change as petitioned, it should instruct the City Attorney to prepare an ordinance that can be adopted supported by findings of fact and conclusions of law to amend the Zoning for the property

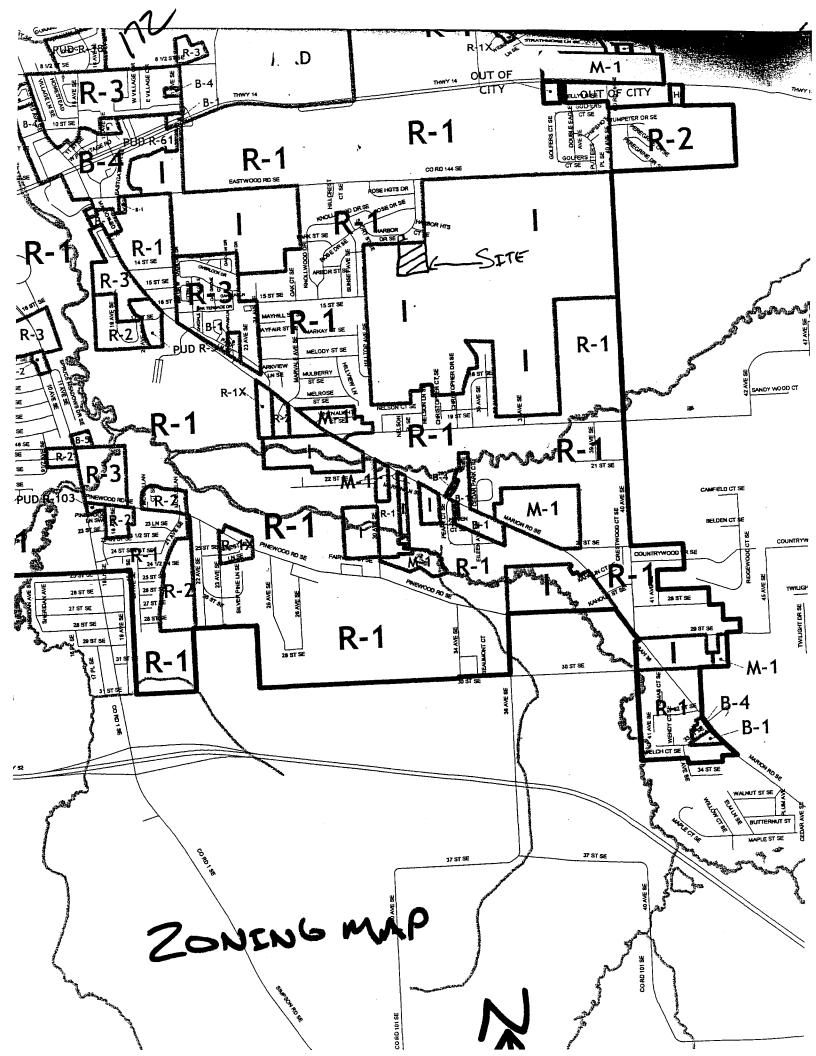
Attachments:

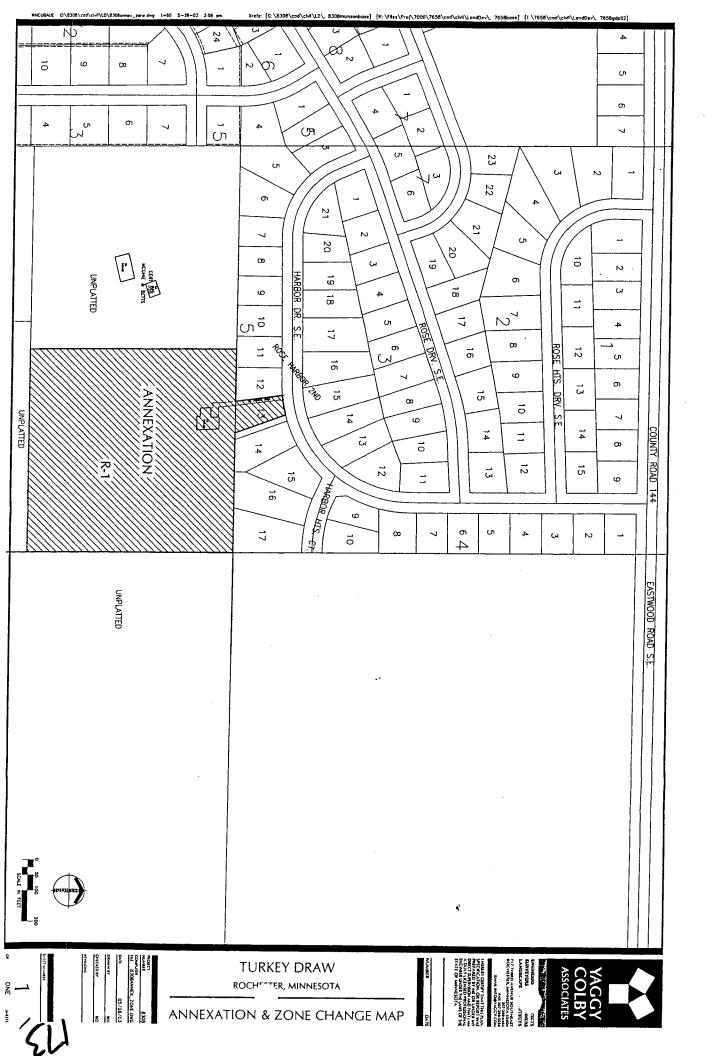
- 1. Staff Report dated June 19, 2003
- 2. Minutes of the June 25, 2003 CPZC Meeting

Distribution:

- 1. City Clerk
- 2. City Administrator
- 3. City Attorney: Legal Description
- 4. Planning Department File
- 5. Applicant: This item will be considered sometime after 7:00 p.m. on Monday, July 21, 2003 in the Council/Board Chambers at the Government Center, 151 4th Street SE.
- 6. Yaggy Colby Associates

COUNCIL ACTION:		
Motion By:	Seconded By:	Action:







ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

www.olmstedcounty.com/planning



TO:

City Planning and Zoning Commission

FROM:

Brent Svenby, Planner

DATE:

June 19, 2003

RE:

Zoning District Amendment #03-13 by Greg Munson. The applicant is proposing to zone approximately 10.19 acres of land from the I (Interim) district to the R-1 (Mixed Single Family) zoning district. The property is located south of Harbor Drive SE and east of Sunrise Avenue SE. A General Development Plan is being considered concurrent with this

application.

Planning Department Review:

Petitioner:

Greg Munson

3116 Harbor Drive SE Rochester, MN 55904

Consultant:

Yaggy Colby Associates 717 Third Avenue SE Rochester, MN 55904

Location of Property:

The property is located south of Harbor Drive SE and

east of Sunrise Avenue SE.

Requested Action:

The applicant is proposing to zone approximately 10.19 acres to the R-1 (Mixed Single Family) district in the City. The property is currently zoned I-Interim

on the Rochester Zoning Map.

Existing Land Use:

There is currently a single family dwelling on the

property.

Proposed Land Use:

The Rochester Urban Service Area Land Use Plan

designates this area as "Low Density Residential"

types of uses.

A General Development Plan is being considered

concurrent with this application.

Adjacent Land Use and

Zoning:

North: Land to the north is platted single family lots, zoned R-1 on the City of Rochester zoning map.

Some of the properties are outside the City limits, but within the Marion Township orderly Annexation

Agreement area, for which City land use and zoning

controls have been extended



Page 2 June 19, 2003 175

South: Undeveloped property (approximately 35 acres) zoned I (Interim) but is outside the City limits, but within the Marion Township orderly Annexation Agreement area, for which City land use and zoning controls have been extended.

East: Undeveloped property (approximately 120 acres) within the City and zoned I (Interim) on the City of Rochester zoning map.

West: A 10 acre parcel with a single family dwelling on it. The property is zoned I (Interim) but is outside the City limits, but within the Marion Township orderly Annexation Agreement area, for which City land use and zoning controls have been extended.

Transportation Access:

Access to this property would be from Harbor Drive SE. A public road is proposed to serve the development, however, it would not be accessible until the property to the south is developed.

An access easement will need to be dedicated to provide access from Harbor Drive SE to the proposed lots indicated on the GDP.

The property to the west is does have the potential to be redeveloped in the future. In order to provide connectivity between properties a public road connection to the parcel to the west should be provided.

Wetlands:

Hydric soils exist on the site according to the Soil Survey. The property owner is responsible for identifying wetlands on the property and submitting the information to the Planning Department.

Neighborhood Meeting:

A neighborhood meeting was held on June 11, 2003. A summary of the meeting is attached.

Report Attachments:

- 1. Area Zoning Map
- 2. Neighborhood Meeting Summary

Analysis for Zoning District Amendment:

Under the provisions of Paragraph 60.338 of the Rochester Land Development Manual, the Commission shall recommend for approval and the Council shall approve, an application requesting an amendment to the zoning map if the amendment satisfies the following criteria:

1) The criteria of this subdivision apply to those amendments to the zoning map filed by formal petition. An amendment need only satisfy one of the following criteria:

- a) The area, as presently zoned, is inconsistent with the policies and goals of the Comprehensive Plan;
- b) The area was originally zoned erroneously due to a technical or administrative error;
- c) While both the present and proposed zoning districts are consistent with the Plan, the proposed district better furthers the policies and goals of the Comprehensive Plan as found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, Chapter 3 of the Housing Plan, and Chapter 10 of the ROCOG Long Range Transportation Plan; or
- d) The area has changed or is changing to such a degree that it is in the public interest to rezone so as to encourage development or redevelopment of the area.

<u>Proposed R-1</u>: The Rochester Urban Service Area Land Use Plan designates this property for "low density residential" types of uses. Upon extension of City of Rochester land use and zoning controls to this area and zoning this property on the City of Rochester Zoning Map, the property was placed in the I-Interim zoning district. The current I-Interim district is not intended to be a permanent zoning district.

It is in the public interest to re-zone the property to encourage development of the property. Sanitary sewer and water service are available to serve this property. A low density residential development in the R-1 district would be compatible on this property and in this area.

- 2) The criteria of this subdivision also apply to those amendments to the zoning map filed by formal petition. However, an amendment must satisfy all of the following criteria:
 - a) the permitted uses allowed within the proposed zoning district will be appropriate on the subject property and compatible with adjacent properties and the neighborhood; and
 - <u>Proposed R-1:</u> Low density residential development in the R-1 district would be compatible on this property and in this area. According to the City of Rochester Zoning Ordinance, the R-1 zoning district is intended to maintain areas where the emphasis has historically been on the development of single family detached dwellings.
 - b) the proposed amendment does not involve spot zoning. (Spot Zoning involves the reclassification of a single lot or several small lots to a district which is different than that assigned to surrounding properties, for reasons inconsistent with the purposes set forth in this ordinance, the state enabling legislation, or the decisions of courts in this state).

Proposed R-1X: The amendment would not be considered spot zoning.

Staff Recommendation:

Based on the findings above, staff recommends approval to zone approximately 10.19 acres from I (Interim) to R-1X (Mixed Single Family Extra) on the City of Rochester zoning map.



SURVEYORS

June 12, 2003

Mr. Brent Svenby
Rochester-Olmsted Planning Department
2122 Campus Drive SE
Rochester, MN 55904

RE: Neighborhood Meeting Summary
Turkey Draw Zone Change & General Development Plan

LANDSCAPE ARCHITECTS

PLANNERS

Dear Mr. Svenby:

A neighborhood meeting was held June 11, 2003 at the office of Yaggy Colby Associates, 717 Third Avenue SE, regarding the proposed R-1 Zone Change and General Development Plan (GDP) for Turkey Draw. Ten neighbors were in attendance (please see attached sign-in sheet) in addition to Greg and Linda Munson. The history and existing use of the property, the future use of the property, as well as individual neighbor's questions and concerns were discussed.

The property is currently zoned interim. The Zone Change to R-1 and the proposed GDP were fairly well received and the neighbors mainly had questions on the process of the Zone Change and GDP. It was explained that there is no current development plans other than to rezone the property so a lot split could be performed on the current home site.

The primary concerns involve how and when the land would be developed and how the property would be served by sanitary sewer. A potential future lift station was discussed that could allow development of the property without access and sewer from the south. It was discussed that additional submittals would be required for more than one lot to be split off. There were no comments on traffic concerns.

If you have any questions or concerns, please call.

.

YAGGY COLBY ASSOCIATES

Wade Neubauer, EIT

YCA #8308 LD2

Sincerely,

Attachment

cc: Greg and Linda Munson

ROCHESTER OFFICE:

717 Third Avenue SE

Rochester, MN 55904

507-288-6464

Fax 507-288-5058

MPLS/ST PAUL OFFICE:

651-681-9040

MASON CITY OFFICE:

641-424-6344

DELAFIELD OFFICE:

262-646-6855



ENGINEERS

ARCHITECTS

SURVEYORS

		ROJECT #	8308 LDZ
PROJECT	Turkey Draw	Neighborho	ad Meeting
PREPARED BY		DATE	6/11/03
CHECKED BY		DATE	7/

LANDSCAPE ARCHITECTS

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179

Department in the attached memo dated June 5, 2003.

7. The roadways illustrated as "Rosewood Lane SW" and "Teakwood Lane SW" and "Scenic Point Drive SW" shall be posted "No Parking" along one side of each roadway.



Zoning District Amendment #03-13 by Greg Munson. The applicant is proposing to zone approximately 10.19 acres of land from the I (Interim) district to the R-1 (Mixed Single Family) zoning district. The property is located south of Harbor Drive SE and east of Sunrise Avenue SE. A General Development Plan is being considered concurrent with this application.

AND

General Development Plan #212 by Greg Munson to be known as Turkey Draw. The applicant is proposing to develop approximately 10.19 acres of land with single family residential uses. The property is located south of Harbor Drive SE and east of Sunrise Avenue SE. A Zoning District Amendment is being considered concurrent with this application.

Ms. Mitzi A. Baker presented the staff reports, dated June 19, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Ms. Baker explained that there was a typographical error in the zoning district amendment findings. The property would actually be zoned R-1 and not R-1x.

Mr. Staver asked staff to comment on the letter from Margaret Nelson regarding providing access through her property.

Ms. Baker responded that Ms. Nelson objects to a public road going through the development and connecting to her property. She stated that the general development plan may appear a little backward, since it shows the public road coming out of the adjacent property when they do not have an approved plan on that site yet. However, the first property designed must have a plan for roadways. She indicated that she believes staff would require an access in that area for a connection to a roadway, regardless of who filed a general development plan first.

Mr. Staver asked, if the development to the south didn't occur, would there only be access to the north.

Ms. Baker stated that staff is asking for an access to the west as well.

Ms. Wiesner asked why an access would not occur to the east.

Ms. Baker responded that there were topography issues.

Ms. Rivas stated that it made more sense to line up the roadway to the west with the other roadway.

Ms. Baker the applicant is proposing a private access to serve a few lots that do not have any frontage on the public road. Therefore, it acts more like a shared private driveway.

Mr. Burke asked how utilities would serve the area.



Page 4
City Planning and Zoning Commission Minutes
Hearing Date: June 25, 2003

Ms. Baker responded that some may be provided through the private access road.

Ms. Wiesner asked if it would be temporary.

Ms. Baker responded no, that did not appear to be the intent.

Discussion ensued regarding phasing of the development.

The applicant's representative, Mr. Wade DuMond of Yaggy Colby Associates (717 Third Avenue SE, Rochester MN 55904), addressed the Commission. He explained that the main reason for going through the zoning district amendment and general development plan is so that the applicant can sell off the home and maintain ownership of the other seven acres. Due to the property being zoned Interim, the zoning district amendment was necessary. He showed where the sanitary sewer would go through the development and where a potential lift station could be placed and pumped through Rose Harbor. There are currently utilities in Rose Harbor.

Mr. DuMond stated that water would have to loop through the property and possibly be extended to the east, west, and to the south.

Mr. DuMond stated that the private access road was created to provide access to the lower portion of the site. The reason it is cutting across the lots is because it is so steep they can only get lots on only one side that are usable.

Mr. DuMond stated that the applicant was in agreement with the staff-recommended conditions.

Ms. Margaret Nelson, of 1405 South Main Street, Zumbrota MN, addressed the Commission. She stated that her son and her were at the neighborhood meeting on June 11, 2003. She indicated that she asked Mr. DuMond if the City could condemn her property for the second access. He responded yes, but that the City did not like to do that. She indicated that she spoke with Mr. DuMond this afternoon, and he then indicated that the City could not condemn it. However, after speaking with an attorney, she found that the City could.

Ms. Nelson stated that Mr. Munson knew that the land was landlocked on three sides when he purchased it. She stated that the proposed plan would provide a second access to his property by taking some of her land that abuts his property. She indicated that she owns 35 acres and her children own the other 36 acres. She currently has an offer on the table of \$20,000 an acre for her land from the Sienna Corporation.

Ms. Nelson stated that she contracted with Yaggy Colby Associates to draw up a development plan for her 71 acres. However, she did not agree with the plan and asked that they furnish her with an alternative plan. She expressed concern that Yaggy Colby Associates did not contact her when they began working on the proposed site for Mr. Munson. She stated that she does not want to give up her valuable land so that Mr. Munson can have a small development on his 8 ½ acres. She explained that the development of her land into large lots with up scaled homes would benefit southeast Rochester and generate taxes for the City.

Ms. Wiesner asked what land she would have to give up.

Ms. Nelson responded that she owns the 35 acres that abuts his land. Potentially the sewer would have to come through her property and the roadway would go through her property to his.

City Planning and Zoning Commission Minutes

Hearing Date: June 25, 2003

She stated that, if the City wanted to condemn her land, they would have to pay her what she has been offered. Also, it would jeopardize the Sienna development for southeast Rochester. She discussed what land Sienna Corporation has been acquiring.

Mr. Dennis Nelson, of 3100 15 Street SE, addressed the Commission. If a lift station was used, he stated that he could not believe that all those people living on those lots going in and out of that private roadway.

Ms. Nelson stated that she is ready to begin developing her land.

Ms. Wiesner asked how Ms. Nelson would get sewer and water to her property.

Ms. Nelson responded through 15 Street SE.

Ms. Nelson stated that she has been thinking about contacting the owner on the east side (Mr. Thien) since she would like an access onto Eastwood Road.

Ms. Wiesner stated that, once Ms. Nelson was ready to develop her land, she would have to show connectivity to adjacent landowners as well. She explained that Mr. Munson is required to connect to her property.

Ms. Nelson responded that she is not asking for Mr. Munson to provide a roadway for her. She has her own plans for her property.

Ms. Wiesner explained that, since Mr. Munson submitted his general development first, they have to show road connections to adjacent properties according to policy.

Ms. Nelson stated that she understands that they have to show it, but explained that it would jeopardize her plans for her property.

Mr. Burke stated that she would also have to show connectivity. He stated that she needed to work with Mr. Munson regarding connection due to topography.

Ms. Nelson stated that Mr. Munson and Yaggy Colby Associates should have contacted her of their plans before submitting them to the Rochester-Olmsted Planning Department.

Mr. Nelson expressed concern that they will need to develop their land right away.

Ms. Wiesner explained that they are required to show a roadway connection to future development. It is a requirement by Public Works. She explained that access was not possible to the east due to topography.

Ms. Baker stated that there seemed to be confusion regarding timing of when development happens on the property to provide the public street access and the sewer access to the site. When a buyer comes in with a development proposal, they will be required to show access to the property. The timing of when utilities and streets get built on the property to provide the access is not being determined at this meeting. One concern being expressed by Mr. and Ms. Nelson is that they feel they are being forced to build street and sewer, or give up land for that, in order for Mr. Munson's property to be planned. She indicated that the property needs to be planned for and they are not determining the time frame in which the sewer and water and street connection from the south to the north would occur. If the City, in the long term, decides





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City Planning and Zoning Commission Minutes

Hearing Date: June 25, 2003

that condemnation of the Nelson property is in the best interest of the community to provide the sewer and water extension and street extension, they will consider that separately.

Ms. Nelson stated that he is opposed to the development of Mr. Munson's property. She reiterated that Mr. Munson and Yaggy Colby Associates should have consulted her with the plans before submitting them to the Rochester-Olmsted Planning Department.

Ms. Petersson asked if she consulted Mr. Munson when her plans were created.

Mr. Haeussinger stated that, if Ms. Nelson had submitted her general development plan before Mr. Munson, she still would have to show a roadway connection to the north. It is a matter of exactly where the roadway would be located.

Mr. Ted Karau addressed the Commission. He stated that the Nelsons were overlooking the fact that an access needed to be located where indicated due to topography. Therefore, the layout is not bad due to the topography of the site.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Ms. Petersson moved to recommend approval of Zoning District Amendment #03-13 by Greg Munson based on the staff-recommended findings. Mr. Burke seconded the motion. The motion carried 7-0.

Ms. Petersson moved to recommend approval of General Development Plan #212 by Greg Munson to be known as Turkey Draw based on the staff-recommended findings and conditions. Mr. Haeussinger seconded the motion.

Mr. Staver stated that he understands that they have to look at the parcel in front of them. However, as a Commission, they are charged at looking at the bigger picture. He stated that he wished there were some more opportunity for the adjoining neighbors to work on a plan that might be beneficial for all. He stated that he understands that Public Works needs access to be provided. However, he believes there is room for some compromise. He stated that he does not feel comfortable supporting the general development plan as drawn.

Mr. Quinn stated that he did not think the general development plan as drawn would be what goes before the City Council. According to condition 1 listed in the staff report, they need to come up with an access to the west. As Mr. Karau mentioned, there is a problem on the east side. Therefore, they will need to go to the west, north, and south.

Ms. Rivas agreed with Mr. Staver. She indicated that the private roadway access going through the lots seemed to be poor planning. If they cut the lot north and south, the design could be better. However, the house is in the way.

The motion carried 5-2, with Mr. Staver and Ms. Rivas voting nay.

CONDITIONS:

1. The GDP shall be revised to provide a public roadway connection to the property to the west at an area where the topography allows and the public cul-de-sac should align on contour with the abutting property to the south.



- 2. Prior to Final Plat submittal, and/or development of this Property, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to, stormwater management, transportation improvements, pedestrian facilities, right-of-way dedication, access and extension of utilities for adjacent properties, and contributions for public infrastructure.
- 3. The GDP does not show any on-site storm water detention for this development. The GDP narrative indicated that the Owner is requesting to participate in the City's Storm Water Management Plan (SWMP) and pay its applicable Storm Water Management fee, in lieu of providing on-site storm water detention. Point discharge to lands outside the City limits will not be permitted without approval by the abutting Owners, and Township Board.
- Pedestrian facilities are required along the entire frontages of both sides of all new public roadways within this development.
- The proposed public cul-de-sac will not be publicly maintained until a public street connection is made to the south of this Property. Details regarding interim maintenance of the proposed public cul-de-sac will be addressed in the Development Agreement.
- 6. The applicant shall execute an Ownership & Maintenance Agreement with the City for the proposed private road, as well as access rights across the private road for the proposed lots that will be located on the proposed public cul-de-sac.
- 7. Parkland dedication requirements for this development shall be met via cash in lieu of land.

Zoning District Amendment #03-12 by West 19th Development. The applicant is proposing to zone approximately 12.93 acres of land to the R-2 (Low Density Residential) zoning district. The property is located east of 60th Avenue NW, north of 19th Street NW and west of Circle 19 Plaza Second Subdivision. A General Development Plan is being considered concurrent with this application.

General Development Plan #211 by West 19th Development to be known as West 19th Development. The applicant is proposing to develop approximately 90 acres of land with a variety of land uses consisting primarily of/low density residential uses. The plan also identifies potential future medium density and non-residential uses. A Zoning District Amendment is being considered concurrent with this application. The property is located east of 60th Avenue NW, north of 19th Street NW and west of Circle 19 Plaza Second Subdivision.

Ms. Mitzi A. Baker presented the staff reports, dated June 19, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Ms. Baker stated that the applicant's consultant would need to submit revised plans a minimum of two weeks prior to the City Council meeting. She indicated that there is a disagreement on one condition of the general development plan regarding the 30 foot park access being 150 feet

